

ORDINANCE NO. 2763 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING THE ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA, ARTICLE 2 (DEFINITIONS AND RULES OF CONSTRUCTION) BY AMENDING SECTION 2.300 (DEFINITIONS), AND ARTICLE 7 (GENERAL DEVELOPMENT STANDARDS) BY ADDING A NEW SECTION 7.800 (MEDICAL MARIJUANA); AND SETTING FORTH AN EFFECTIVE DATE.

WHEREAS, Proposition 203, the Arizona Medical Marijuana Act, was approved by Arizona voters on November 2, 2010 and provides for certain medical marijuana use, sale, manufacturing and cultivation including the establishment of medical marijuana dispensaries in the State of Arizona, including the City of Glendale;

WHEREAS, the Federal Controlled Substances Act, and applicable regulations, classify marijuana as a 'Schedule I' drug and consequently prohibit its use in any manner with exceptions only for research purposes;

WHEREAS, nothing in this ordinance is intended to permit or assist in the violation of either the federal Controlled Substances Act or the Arizona Controlled Substances Act;

WHEREAS, the Federal Food and Drug Administration (FDA) continues to support the placement of marijuana as a 'Schedule I' controlled substance with no currently accepted medical use in the United States;

WHEREAS, past evaluation by federal agencies including the FDA, Substance Abuse and Mental Health Services Administration (SAMHSA), and National Institute for Drug Abuse (NIDA) have concluded that no sound scientific studies support medical use of marijuana for treatment in the United States;

WHEREAS, the FDA as the federal agency responsible for reviewing the safety and efficacy of drugs, DEA as the federal agency charged with enforcing the Controlled Substances Act and the Office of National Drug Control Policy, as the federal coordinator of drug control policy, do not support the use of smoked marijuana for medical purposes;

WHEREAS, evaluation of several California cities' experience with medical marijuana dispensaries and the opinion of the California Police Chiefs' Association have indicated negative secondary effects associated with the operation of medical marijuana dispensaries including illegal drug sales, at a price less than dispensary prices, to dispensary patrons; marijuana use in and around dispensaries; non-residents being attracted to the community to secure marijuana; DUI arrests related to marijuana purchased at dispensaries; burglaries of dispensaries; drug dealers posing as medical marijuana users to purchase and resell marijuana illegally; robbery of medical marijuana patrons; thefts in and around dispensaries to support legal and illegal drug

commerce; negative effects on surrounding businesses resulting from a concentration of criminals associated with the dispensary; and illegal sale of drugs other than marijuana in dispensaries;

WHEREAS, robberies, assaults, and burglaries of dispensaries may be under reported by dispensaries and crime statistics may consequently inaccurately underestimate the incidence of such crimes, and dispensaries may account for a disproportionate number of such uses in comparison to other business uses;

WHEREAS, dispensaries, by virtue of their operation, may be the repositories of large amounts of cash and marijuana and consequently operators have been attacked at their dispensaries and at home; dispensaries have been regularly burglarized; dispensaries account for other negative effects on the community such as sales of drugs to unauthorized users, loitering, heavy vehicle traffic, increased noise and robbery of dispensary customers;

WHEREAS, the Director of the Office of National Drug Control Policy reports that in states such as Colorado youths who receive information that marijuana is a medicine assume that marijuana use is safe, but science in clear that marijuana use is harmful and associated with dependence, respiratory and mental illness, poor motor performance, and cognitive impairment;

WHEREAS, medical marijuana dispensaries are not currently a permitted use of land in the City of Glendale;

WHEREAS, medical marijuana cultivation is not currently a permitted use of land in the City of Glendale;

WHEREAS, unregulated dispensaries can expand enormously within a municipality; and the current City of Glendale Zoning Ordinance does not specifically address or regulate establishment, location or operation of marijuana dispensaries;

WHEREAS, Proposition 203 expressly authorizes cities to enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries;

WHEREAS, Arizona law permits cities to enact zoning regulations in order to conserve and promote the public health, safety and general welfare and regulate the use of buildings, structures and land as between agriculture, residence, industry, business and other purposes;

WHEREAS, it is necessary to restrict, or prohibit the use or division of real property within the City of Glendale in order to protect the public's health, safety, and general welfare by establishing appropriate regulation of medical marijuana dispensaries, cultivation facilities and home cultivation;

WHEREAS, regulations defining permitted location of dispensaries, and cultivation facilities and providing for the minimum separation of such facilities from uses such as schools, residences, and other marijuana facilities will reduce or eliminate the threat to public health, safety and welfare potentially caused by medical marijuana uses;

WHEREAS, the regulations, limitations and prohibitions established in this Ordinance are necessary to protect and preserve the public's health and safety;

WHEREAS, this Ordinance does not create new regulations on the use of property, and this ordinance is not intended to, nor should it be construed to, reduce any existing rights to use, divide, sell or possess private real property;

WHEREAS, the City of Glendale Planning Commission held a public hearing on January 20, 2011, in zoning case ZTA10-01, in the manner prescribed by law for the purpose of amending the text of the Zoning Ordinance of the City of Glendale, Arizona;

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance and manner provided by law including publication of such notice in the *Glendale Star* on December 30, 2010; and

WHEREAS, the City of Glendale Planning Commission has recommended to the Mayor and the Council the amendment of the text of the Zoning Ordinance of the City of Glendale, Arizona as aforesaid and the Mayor and the Council desire to accept such recommendation and amend the text of the Zoning Ordinance of the City of Glendale, Arizona.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That the Zoning Ordinance of the City of Glendale, Arizona, Article 2 (Definitions and Rules of Construction), Section 2.300 (Definitions) is hereby amended by adding the following Definitions:

Medical Marijuana: All parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Medical Marijuana Cultivation: The process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana that is physically separate and off-site from a medical marijuana dispensary.

Medical Marijuana Designated Caregiver Cultivation Location: An enclosed, locked facility such as a closet, room, greenhouse or other building that does not exceed 250 square feet of cultivation space where a designated caregiver, as defined by A.R.S. § 36-2801(5), cultivates marijuana. There shall be no identification of the location as a Medical Marijuana Designated Caregiver Cultivation Location. Medical Marijuana Cultivation must not be detectable from the exterior of the building in which the cultivation takes place.

Medical Marijuana Dispensary: A non-profit entity defined in A.R.S. § 36-2801(11) that sells, distributes, transmits gives, dispenses, or otherwise provide medical marijuana to qualifying patients. A Medical Marijuana Dispensary shall have a single secure entrance and shall implement appropriate security measures to deter and prevent the theft of Marijuana and unauthorized entrance into areas containing marijuana.

Medical Marijuana Dispensary Offsite Cultivation Location: The additional location where marijuana is cultivated by a Medical Marijuana Dispensary as referenced in A.R.S. § 36-2804(B) (1) (b) (ii).

Medical Marijuana Infusion (or Manufacturing) Facility: A facility that incorporates medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable/edible goods.

Medical Marijuana Qualifying Patient: A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801(13).

Medical Marijuana Qualifying Patient Cultivation Location: An enclosed, locked facility such as a closet, room, greenhouse, or other building that does not exceed 50 square feet of cultivation space where a qualifying patient, as defined by A.R.S. § 36-2801(13), cultivates marijuana. The qualifying patient cultivation location must be accessory to the qualifying patient's primary residence. Medical Marijuana Cultivation as an accessory use to the qualifying patient's primary residence must not be detectable from the exterior of the building in which the cultivation takes place. Medical Marijuana Cultivation as an accessory use to the qualifying patient's primary residence shall only be permitted if the residence is located at least 25 miles distant from a Medical Marijuana Dispensary.

SECTION 2. That the Zoning Ordinance of the City of Glendale, Arizona, Article 7 (General Development Standards) is hereby amended by the addition of the following Section 7.800:

Section 7.800. Medical Marijuana.

7.801 – Medical Marijuana Dispensary Offsite Cultivation Location.

A Medical Marijuana Dispensary Offsite Cultivation Location shall be permitted only in the Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts, subject to the following conditions and limitations:

A. Applicant shall provide:

1. Name(s) and location(s) of the affiliated offsite medical marijuana dispensary associated with the cultivation operation.
2. A copy of the operating procedures adopted in compliance with A.R.S. § 36-2804(B) (1) (c).

3. A survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within 10,560 feet.
 4. Site plan, floor plan, building permits for occupancy change, and a security plan.
 5. If the application is by an agent for the owner of the property, the owner's authorization must include an explicit acknowledgement from the owner that the owner knows that the proposed use of the property is as a medical marijuana offsite cultivation location.
- B. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
 - C. Shall not permit on-premise consumption.
 - D. Shall not be located within 5,280 feet of any other Medical Marijuana Dispensary, Medical Marijuana Dispensary Offsite Cultivation Location, Medical Marijuana Infusion (or Manufacturing) Facility, or Medical Marijuana Designated Caregiver Cultivation Location. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
 - E. Shall not be located within 1,320 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
 - F. Shall not be located within 1,320 feet of an elementary, secondary or high school. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
 - G. Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.
 - H. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.
 - I. There shall be no retail sales at the facility.
 - J. The offsite cultivation location must comply with the security requirements of A.R.S. Title 36, Chapter 28.1.

K. Shall be a maximum 25,000 gross square feet.

7.802 – Medical Marijuana Dispensary.

Medical Marijuana Dispensary shall be permitted only in the General Office (G-O), General Commercial (C-2), and Heavy Commercial (C-3) zoning districts, subject to the following conditions and limitations:

A. Applicant shall provide:

1. Name and location of the offsite cultivation location, if applicable.
2. A copy of the operating procedures adopted in compliance with A.R.S. § 36-2804(B) (1) (c).
3. A survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within 10,560 feet.
4. Site plan, floor plan, building permits for occupancy change, and a security plan.
5. If the application is by an agent for the owner of the property the owner's authorization must include an explicit acknowledgement from the owner that the owner knows that the proposed use of the property is as a medical marijuana dispensary.

B. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.

C. Shall not provide outdoor seating.

D. Shall not permit on-premise consumption.

E. Shall be a maximum 2,000 gross square feet.

F. Shall not be located within 5,280 feet of any other Medical Marijuana Dispensary, Medical Marijuana Dispensary Offsite Cultivation Location, Medical Marijuana Infusion (or Manufacturing) Facility, or Medical Marijuana Designated Caregiver Cultivation Location. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.

G. Shall not be located within 500 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building

or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.

- H. Shall not be located within 1,320 feet of an elementary, secondary or high school. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
- I. Shall have operating hours not earlier than 8:00 a.m. and not later than 8:00 p.m.
- J. Off-site delivery is prohibited.
- K. Drive-through services are prohibited.
- L. Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the dispensary's exterior refuse containers.
- M. There shall be no emission of dust, fumes, vapors, or odors into the environment from the dispensary.
- N. The dispensary must comply with the security requirements of A.R.S. Title 36, Chapter 28.1.
- O. A prominent and permitted sign stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES" shall be located in a place that is clearly visible to patrons of the dispensary. As depicted by the signage, no loitering is allowed on or in front of the premises of the Medical Marijuana Dispensary.
- P. Additionally, a security plan shall be submitted by the applicant in conjunction with design review approval. The security plan shall include provisions for the following:
 - 1. An alarm system with a redundant power supply and circuitry to prevent deactivation.
 - 2. A video surveillance system that at all times records all interior areas and the exterior perimeter.
 - 3. A lighting system that at all times illuminates the interior areas and the exterior perimeter.
 - 4. A plan for the reprogramming of all security codes and keys in the event an employee resigns or is terminated.

7.803 – Medical Marijuana Infusion (or Manufacturing) Facility.

Medical Marijuana Infusion (or Manufacturing) Facility shall be permitted only in the Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts, subject to the following conditions and limitations:

A. Applicant shall provide:

1. Name(s) and location(s) of the affiliated offsite Medical Marijuana Dispensary associated with the infusion (or manufacturing) facility.
2. A copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B) (1) (c).
3. A survey sealed by a registrant of the State of Arizona showing the location of the nearest Medical Marijuana Dispensary, Medical Marijuana Dispensary (No Cultivation), Medical Marijuana Dispensary Offsite Cultivation Location, or Medical Marijuana Infusion (or Manufacturing) Facility if within 10,560 feet.
4. Site plan, floor plan, building permits for occupancy change, and a security plan.
5. If the application is by an agent for the owner of the property, the owner's authorization must include an explicit acknowledgement from the owner that the owner knows that the proposed use of the property is for a medical marijuana infusion (or manufacturing) facility.

B. The Facility shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.

C. The Facility shall not be located within 5,280 feet of any other Medical Marijuana Cultivation, Medical Marijuana Dispensary, Medical Marijuana Dispensary Offsite Cultivation Location, Medical Marijuana Infusion (or Manufacturing) Facility, or Medical Marijuana Designated Caregiver Cultivation Location. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.

D. The facility shall not be located within 1,320 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.

E. The Facility shall not be located within 1,320 feet of an elementary, secondary or high school. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.

- F. The Facility shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.
- G. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.
- H. There shall be no retail sales at the facility.
- I. Shall not permit on-premise consumption.
- J. The Facility must comply with the security requirements of A.R.S. Title 36, Chapter 28.1.
- K. Shall be a maximum 10,000 gross square feet.

7.804 – Medical Marijuana Designated Caregiver Cultivation Location.

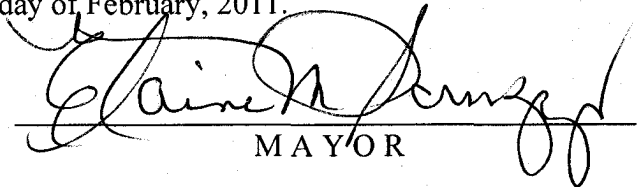
Medical Marijuana Designated Caregiver Cultivation location shall be permitted only in the Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts, subject to all rules adopted by the Arizona Department of Health Services and the following conditions and limitations:

- A. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
- B. Shall not permit on-premise consumption.
- C. The location shall provide for proper disposal of marijuana remnants or by-products, and not placed within the location's exterior refuse containers.
- D. There shall be no emission of dust, fumes, vapors, or odors into the environment from the location.
- E. There shall be no retail sales at the location.
- F. More than one designated caregiver may co-locate cultivation locations as long as the total cultivation area does not exceed 250 square feet.
- G. The designated caregiver location must comply with the security requirements of A.R.S. Title 36, Chapter 28.1.
- H. If the application is by an agent for the owner of the property, the owner's authorization must include an explicit acknowledgement from the owner that the owner knows that the proposed use of the property is for a medical marijuana designated caregiver cultivation location.

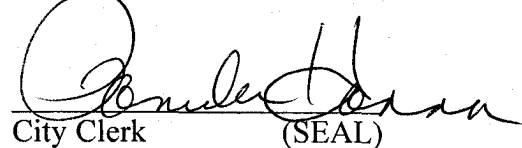
SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. That the provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

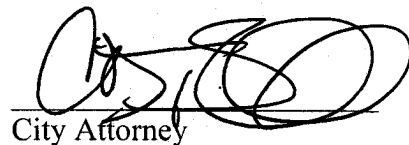
PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 22nd day of February, 2011.


MAYOR

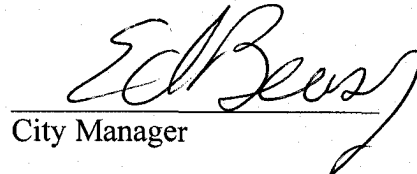
ATTEST:


City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

REVIEWED BY:


City Manager